

02.05.2023
Sl. No.85(ML)
srm

W.P.A. No. 18032 of 2022
Prasanta Chakraborty & Ors.
Versus
The State of West Bengal & Ors.

Ms. Papiya Chattopadhyay
....for the Petitioners.

Mr. Rabindra Narayan Dutta,
Mr. Hare Krishna Halder
...for the State-respondents.

Despite service, none appears on behalf of the respondent Nos.10 to 12 as also the panchayat authorities. Affidavit-of-service is taken on record.

The Court is not inclined to pass mandatory directions as prayed for, but deems it fit to send back the matter before the competent authority, for necessary steps. Thus, the writ petition is taken up in the absence of the respondent Nos.10 to 12, who will be given adequate opportunity of hearing by the said authority.

The Court is not impressed with the pleadings and does not deem it fit to issue mandamus upon the panchayat authorities directing them to take steps on the basis of the complaint made by the petitioners.

The petitioners have approached the panchayat authorities with various prayers. None of the prayers can be entertained in the form that they have been framed. If the contention of the petitioners is that the respondent Nos.10 to 12 have raised a construction without any permission from the authorities and/or in violation of the building rules, proper representation ought to have been filed indicating the alleged illegality in the construction of the said respondents.

Deficiencies in the pleadings and inadequacy in the supporting documents, prompts the Court to dispose of the writ petition without any orders.

The petitioners are at liberty to approach the Bewa-1 Gram Panchayat, Murshidabad, by filing a proper objection, pointing out the alleged illegalities in the construction. If such objection is filed, the same shall be disposed of in accordance with law.

While doing so, the permission granting authority shall adhere to the following procedure:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent Nos.10 to 12, with 48 hours advance notice to the petitioners and the respondent Nos.10 to 12.

- b) A report of the inspection shall be prepared along with the sketch map, indicating the extent of unauthorized construction, if any.
- c) Such report shall be handed over to the petitioners as also the respondent Nos.10 to 12.
- d) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission as also in violation of the building rules and had been continuing, the authorities may take interim measures by stopping such construction.
- e) A hearing shall be given to all the parties. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions, before the competent authority.
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the provisions of Section 23(5) of the West Bengal Panchayat Act, 1973.

The entire exercise shall be completed within a period of four months from the date of receipt of the petitioners' representation.

The questions of right, title, interest, encroachment, etc. shall not be gone into.

The Court has not gone into the merits of the claims of the petitioners and the issues raised, shall be decided by the competent authority, independently.

A copy of the writ petition, along with a server copy of this order be served upon the Secretary, Bewa-1 Gram Panchayat, Murshidabad.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)